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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,298	02/09/2004	Mike Timpano	TIMPAN04-01	1141
7590 07/14/2004			EXAMINER	
Anderson & Morishita, L.L.C. Suite 102 2725 S. Jones Blvd. Las Vegas, NV 89146			COLLINS, DOLORES R	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,298

Applicant(s)

TIMPANO, MIKE

Examiner

Dolores R. Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,8,12-15 and 19-21 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-7 is/are rejected.
- 7) ☒ Claim(s) 9-11 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 9-11 & 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether applicant is attempting to claim a method or a device. The above claims are recited as being a device but depend from method claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2 & 5-6 rejected under 35 U.S.C. 102(b) as being anticipated by Pham (973).

Pham discloses a Three of A Kind Card game And Method Of Playing The Same.

Regarding claim 1

Pham teaches a game which uses a deck of playing cards which includes that can be considered indicator cards, i.e., 3 jokers and dot cards (see abstract & figure 2).

Regarding claim 2

Pham teaches playing cards that are considered indicator cards that are visually distinguishable (see figure 2).

Regarding claims 5 & 6

Pham teaches playing cards that have corresponding dimensions (see figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Pham as applied to claim 1 above, and further in view of Vogel (146).

Pham discloses a Three of A Kind Card game And Method Of Playing The Same. Pham fails to teach cards that are tactilely distinguishable. Vogel discloses Game Playing Pieces with an embodiment that includes cards (col. 18, lines 29-44). It would have been obvious to one of ordinary skill in the art to modify the cards taught by Pham to include tactilely distinguishable cards to add excitement to the game as well as to include players who are visually impaired.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Pham as applied to claim 1 above, and further in view of Levorchick et al. (797).

Pham discloses a Three of A Kind Card game And Method Of Playing The Same. Pham fails to teach the use of a cardholder as part of his game. Levorchick

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discloses a Playing Card Holder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a card holder to Pham's game to provide the players with freedom during game play.

Allowable Subject Matter

4. Claims 3, 8, 12-14, 15 & 19-21 are allowed.

The following is an examiner's statement of reasons for allowance: Patentability has been found because the prior art fails to suggest or show the combination as set forth in the independent claims 3, 8 & 15 including indicia measuring the approximate depth within the stack at which the indicator cards is inserted and the permitting and restricting of additional players relative to the position of the indicator card. This requirement is not seen or fairly suggested by the prior art of record.

Claim 3 was considered allowable over prior art. The closest prior art of reference for claims 8, 12-14, 15 & 19-21 was Glavich et al (267). Glavich discloses Gaming Device having Wild Indicators. Glavich teaches the use of an indicator device in the form of a Wild card. Glavich et al., however, fail to anticipate or render obvious applicant's invention because the functionality of his Wild card is very different from applicant's invention.

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5. Claims 9-11 & 16-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

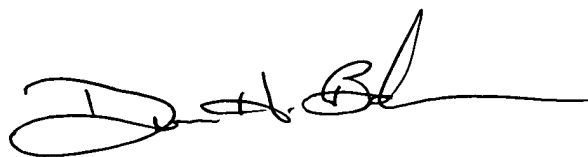
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is **(703) 308-8352**. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***Derris Banks*** can be reached on **(703) 308-1745**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).



DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700



July 9, 2004